

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

VERSUS

CRIMINAL ACTION NO. 1:00cr79BrG

HERBERT DANIEL FISHER, JR.

DEFENDANT

ORDER

The United States Court of Appeals for the Fifth Circuit entered an order remanding this case and directed the Court to determine whether the defendant's Motion for Reconsideration [**docket entry no. 93**], dated December 15, 2005 and filed by the Court on December 27, 2005, was timely deposited with the institution's internal mail system in accordance with FEDERAL RULES OF APPELLATE PROCEDURE 4(c)(1). Accordingly,

IT IS HEREBY ORDERED:

1. That within 20 days of the entry of this Order the defendant must either (1) file a declaration made under penalty of perjury as set forth in 28 U.S.C. § 1746, or (2) file a notarized statement, either of which must set forth the date of deposit and state that first-class postage had been prepaid. The defendant should also include any attachments (*i.e.*, the institution's mail log) establishing that the defendant timely deposited the Motion for Reconsideration in the institution's internal mail system on or before the last day for filing.

2. That the defendant is warned that failure to advise the Court of a change of address or failure to comply with any order of the Court will be deemed as a purposeful delay and contumacious act by the defendant and may result in the dismissal of the defendant's notice of appeal.

SO ORDERED, this the 19th day of September, 2006.

S/DAVID BRAMLETTE
UNITED STATES DISTRICT JUDGE